

UNITED STATES DISTRICT COURT

for the

Southern District of Texas

United States Courts
Southern District of Texas
FILED

June 19, 2020

United States of America

v.

FEDERICO FRANCO

David J. Bradley, Clerk of Court

Case No. **4:20-mj-1097**

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of April 14, 2020 in the county of Brazoria in the
Southern District of Texas, the defendant(s) violated:*Code Section**Offense Description*

18 U.S.C. Section 924(a)(1)(A)

Whoever, knowingly makes any false statement or representation with respect to the information required to be kept in the records of a federal firearms licensee (FFL)

Title 18. U.S.C. Section 922(a)(6)

Whoever, knowingly makes a false and fictitious statement to a federal firearms licensee, which statement is intended to deceive the licensee as to a fact material to the lawfulness of a sale or transfer of a firearm.

This criminal complaint is based on these facts:

See Attached Affidavit

☐ Continued on the attached sheet.

Complainant's signature

KEVIN ISTE, Special Agent - ATF

Printed name and title

Sworn to before me telephonically.

Date: June 19, 2020City and state: Houston, Texas

Judge's signature

United States Magistrate Judge

Printed name and title

AFFIDAVIT

I, Special Agent Kevin Istre, affiant, being first duly sworn via telephone hereby depose and state the following:

1. That I am currently employed as a Special Agent with the Bureau of Alcohol, Tobacco and Firearms & Explosives (ATF) and have been so since 2014. Beginning in November 2004, I was a Police Officer with the City of Baton Rouge, Louisiana, where I served as a Task Force Agent with the Drug Enforcement Administration from July 2009 until May of 2014. During my career, I have investigated violations of Federal and State laws to include firearms and illegal substances.

2. During my employment as an ATF Special Agent, I have received specialized training regarding, and have personally participated in, various types of investigative activity, including, but not limited to, the following: (a) physical surveillance; (b) the debriefing of defendants, witnesses, informants and other individuals who have knowledge concerning violations of federal firearms laws; (c) undercover operations; (d) the execution of search warrants; (e) the consensual monitoring and recording of conversations; (f) electronic surveillance through the use of pen registers and trap and trace devices; (g) the court-authorized interception of both wire and electronic communications (i.e., Title III wiretaps); and (h) the handling and maintenance of evidence.

3. This Affidavit is made for the limited purpose of establishing probable cause in support of a Criminal Complaint alleging that **FEDERICO FRANCO** violated the following statutes:

- Title 18 U.S.C. Section 924(a)(1)(A): Whoever, knowingly makes any false statement or representation with respect to the information required to be kept in the records of a federal firearms licensee (FFL). (Commonly known as a *straw purchase*)
- Title 18. U.S.C. Section 922(a)(6): Whoever, knowingly makes a false and fictitious statement to a federal firearms licensee, which statement is intended to deceive the licensee as to a fact material to the lawfulness of a sale or transfer of a firearm.

4. Since this Affidavit is for the limited purpose of establishing probable cause to support the Criminal Complaint, it contains only a summary of relevant facts. I have not included every fact known to me concerning the entities, individuals, and the events described in this Affidavit.

5. The statements made in this Affidavit are based in part on: (a) my personal participation in this investigation; (b) information provided to me by other law enforcement officers; (c) interviews and records of involved parties; and (d) the training and experience of myself and other law enforcement agents and officers.

6. To the extent that consensually recorded communications are summarized below, those summaries do not include references to all of the topics covered during the course of the conversation that was recorded. In addition, the summaries do not include references to all statements made by the speakers on the topics that are described. All quotations from recorded conversations are based upon preliminary transcriptions of those conversations and/or from the Affiant having personally listened to the recordings.

7. Your affiant knows that Federal Firearms Licensees (FFL) are required to keep the ATF Form 4473 (Firearms Transaction Record) which is completed by the purchaser, which includes information regarding the name, age, current residence of the purchaser, and the purchaser's certification that he or she is not prohibited from possessing firearms. Furthermore, the purchaser must certify that their answers on the ATF Form 4473 are true, correct and complete.

8. Moreover, the ATF Form 4473 also warns the buyer that making a false statement on the ATF Form 4473 is a felony offense. Lastly, any false statement or representation made on the ATF Form 4473, which is information required to be kept in the records of a federal firearms licensee, is a violation of 18 USC 924(a)(1)(A).

FACTS LEADING TO DISCOVERY OF SUSPICIOUS PURCHASES MADE BY FEDERICO FRANCO

9. On April 29, 2020 the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) conducted a federal search warrant on the Federal Firearms Licensee "Zeroed In Armory, LLC" (FFL License: 576-04613) located at 2318 Roy Road, in the City of Pearland, Southern District of Texas. Among the items seized from the business were the records including ATF Form 4473s of completed firearms transactions.

10. Upon reviewing these records, Agents observed firearms purchases that they deemed to be suspicious based upon their training and experience conducted by a subject named **FEDERICO FRANCO**, a Hispanic male with a date of birth of 11/12/1998 and Texas driver's license 45238778. Agents observed **FEDERICO FRANCO** had conducted six firearms transactions with the business during which he purchased approximately fifty-five firearms in the months of March and April 2020. On several of these transactions, **FEDERICO FRANCO** purchased multiple units of the same firearms (make, model and caliber).

11. For example ATF Agents examined an ATF Form 4473 that indicated on April 14, 2020 **FEDERICO FRANCO** purchased TEN (10) Ruger Model LCRX .38 caliber revolvers (Serial Numbers: 1542-34251, 1542-34242, 1542-34266, 1542-34243, 1542-34254, 1542-34263, 1542-34267, 1542-34253, 1542-34241 and 1542-34255) and TWO (2) Anderson Manufacturing model AM-15 multiple caliber rifles (Serial Numbers: 20071829 and 20069457). Agents observed **FEDERICO FRANCO** marked "Yes" to Question 11a: *Are you the actual transferee/buyer of the firearm(s) listed on this form? Warning: You are not the actual transferee/buyer if you are acquiring the firearm(s) on behalf of another person.* Agents further observed **FEDERICO FRANCO** marked "No" to Question 11e: *Are you an unlawful user of, or addicted to, marijuana or any depressant, stimulant, narcotic drug, or any other controlled substance. Warning: The use of possession of marijuana remains unlawful under Federal law regardless of whether it has been legalized or decriminalized for medicinal or recreational purposes in the state where you reside.* Agents estimated this transaction would have been around \$6700 based upon manufacturer's suggested retail pricing without taxes.

STATEMENTS OF FEDERICO FRANCO TO FEDERAL AGENTS

12. On May 11th, 2020 the Affiant and another Special Agent with ATF contacted **FEDERICO FRANCO** at his residence located in Houston, Texas. Agents identified themselves to **FEDERICO FRANCO** and advised they wished to speak to him in regards to firearms purchases, but that he was

not under arrest. **FEDERICO FRANCO** agreed to speak to Agents. During the beginning of their interview, **FEDERICO FRANCO** made statements to the Agents that he later advised were not factual or accurate. **FEDERICO FRANCO** ultimately admitted to the Agents that during the period of March and April 2020 he was provided with the funds to purchase firearms, directed on which firearms to purchase and relinquished custody of the firearms to another individual known to him as "Brad." **FEDERICO FRANCO** advised that he was compensated for these purchases based on a percentage of the financial transaction for the firearms. **FEDERICO FRANCO** advised none of the firearms purchased were still in his custody or control. In addition to the firearms purchases made from Zeroed In Armory, **FEDERICO FRANCO** advised Agents he had purchased firearms in a similar manner for "Brad" from other Federal Firearms Licensees in the Houston, Texas area.

13. Additionally, **FEDERICO FRANCO** advised Agents he was "hooked" on methamphetamine. **FEDERICO FRANCO** advised he smokes methamphetamine and had been using it for "a while." **FEDERICO FRANCO** described to agents how he had gone (on a bender) for nine weeks straight with his father heavily using the drug and not sleeping prior to his father's arrest. **FEDERICO FRANCO** told agents he was not using it as heavily now but described to them all the different places where he acquires the drug to support his habit.

15. Your affiant believes **FEDERICO FRANCO** provided false information as it pertains to question 11(a) of the ATF Form 4473 when he checked the box as being the actual buyer of the firearm when he had knowledge, or reason to believe, the aforementioned firearms he purchased on April 14, 2020 from ZIA were in fact for "Brad." Furthermore, you affiant believes **FEDERICO FRANCO** provided false information as it pertains to question 11(e) of the ATF Form 4473 when he checked the box saying "No" he was not a user or addicted to a controlled dangerous substance.

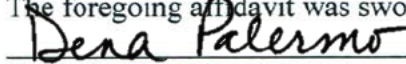
16. Due to the facts outlined above and to the best of your affiant's knowledge and belief, all statements made in this affidavit are true and correct. Based on these facts, your affiant believes probable cause exists for the issuance of an arrest warrant for the person of **FEDERICO FRANCO** in the straw purchase of the previously mentioned firearms on April 14, 2020, in violation of Title 18 U.S.C. Section 924(a)(1)(A) and Title 18 U.S.C. Section 922(a)(6).



Kevin Istre

Special Agent, ATF

The foregoing affidavit was sworn to telephonically on this 19th day of June, 2020



HONORABLE Dena Palermo
U. S. Magistrate Judge

